

07/15/2016

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: PR 16-0411

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Office of Disciplinary Counsel

FILED

JUL 15 2016

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

7 BEFORE THE COMMISSION ON PRACTICE OF THE
8 SUPREME COURT OF THE STATE OF MONTANA

9
10 IN THE MATTER OF ROBERT C. MYERS,
11 An Attorney at Law,
12 Respondent.

} Supreme Court No.
} ODC File No. 16-087
} COMPLAINT

14
15 Upon leave of the Commission on Practice granted on July 14, 2016, the
16 Office of Disciplinary Counsel for the State of Montana hereby charges Robert C.
17 Myers with professional misconduct as follows:

18 General Allegations

19
20 1. Robert C. Myers, hereinafter referred to as Respondent, was admitted
21 to the practice of law in the State of Montana in 2010, at which time he took the
22 oath required for admission, wherein he agreed to abide by the Rules of
23 Professional Conduct, the Disciplinary Rules adopted by the Supreme Court, and
24
25

1 the highest standards of honesty, justice and morality, including but not limited to,
2 those outlined in parts 3 and 4 of Chapter 61, Title 37, Montana Code Annotated.

3 2. The Montana Supreme Court has approved and adopted the Montana
4 Rules of Professional Conduct ("MRPC"), governing the ethical conduct of
5 attorneys licensed to practice in the State of Montana, which Rules were in effect
6 at all times mentioned in this Complaint.
7

8 Count One

9
10 3. ODC realleges and incorporates paragraphs 1 through 2 of the General
11 Allegations as if fully restated in this Count One.

12 4. Respondent is a candidate for district court judge in Ravalli County,
13 Montana, for the Twenty-First Judicial District Court. Judge Jeffrey Langton is the
14 incumbent.
15

16 5. Beginning on or about June 1, 2016, and continuing for approximately
17 five weeks, Respondent's judicial campaign aired the following radio
18 advertisement on numerous stations in the Missoula and Ravalli County areas, up
19 to 58 times per week:
20

21 This is Dan Cox and I have a warning for you. I caught Judge
22 Langton committing fraud on the court. He was secretly
23 communicating with attorneys for the other party. He denied me a
24 chance to respond and prevented me from fully representing my
25 case. Robert Myers was the only attorney who helped me stand up
to this corruption. All I was asking for was a new judge to
determine how his conduct affected my ability to have a fair
hearing. Not only did Jeff Langton not allow a neutral judge to

1 look at his conduct, but he stopped all witnesses, including
2 himself, from being questioned. He, of course, found himself
3 innocent without a hearing. No judge should judge his own
4 conduct. Shame on Judge Langton for retaliating against my
5 lawyer. And shame on Judge Langton for not giving me and my
6 children a fair hearing.

7 6. As already alleged in Montana Supreme Court Cause PR 16-0245,
8 ODC File No. 15-133, hereby incorporated by reference, Respondent was
9 personally sanctioned under Rule 11, M.R.Civ.P., by Judge Langton for making
10 legally and factually unsupported arguments on behalf of Dan Cox in post-
11 judgment proceedings before the Twenty-First Judicial District Court. The
12 proceedings included a Rule 60 motion for relief, a motion to disqualify Judge
13 Langton that was referred to the Montana Supreme Court, and a direct appeal that
14 was dismissed for failure to file an opening brief.

15 7. Respondent was sanctioned in the amount of \$10,000, which was
16 affirmed on appeal to the Montana Supreme Court in Cause DA 14-0389,
17 published non-cite opinion at 2015 MT 134N. Respondent's motion to disqualify
18 Judge Langton was denied by the Montana Supreme Court on February 18, 2014.

19 8. The district court and appellate record in Dan Cox's case establish
20 that he was provided with both notice and a right to be heard in all aspects of the
21 proceedings, meeting the requirements of civil due process. Judge Langton
22 presided over a two-day hearing concerning the child custody issues then pending
23 before him. Dan Cox, at that time *pro se*, was afforded the opportunity to call and
24
25

1 examine witnesses and present evidence as well as verbal and written arguments.
2 Following judgment, he exercised his right of appeal and to post-judgment
3 motions.

4 9. The district court and appellate record in Dan Cox's case establish
5 that Judge Langton did not have improper *ex parte* contact with adverse counsel.
6

7 10. The district court and appellate record in Dan Cox's case establish
8 that he was not prevented from fully representing his case, but rather had a fair
9 hearing.
10

11 11. The district court and appellate record in Dan Cox's case establish
12 that Judge Langton did not commit fraud on the court or otherwise engage in
13 corruption.
14

15 12. The district court and appellate record in Dan Cox's case establish
16 that Judge Langton referred the disqualification motion to the Montana Supreme
17 Court, which found no grounds for disqualification. As such, a neutral judge did
18 review his conduct.
19

20 13. The district court and appellate record in Dan Cox's case establish
21 that Judge Langton did not retaliate against Respondent; rather he reported
22 Respondent's sanctioned conduct to ODC pursuant to his mandatory reporting
23 obligation under Rule 2.16, Montana Code of Judicial Conduct ("MCJC").
24
25

1 19. Rule 4.1(A)(10), MCJC, prohibits candidates from knowingly, or
2 with reckless disregard for the truth, making any false statement.

3 20. Rule 4.1(B), MCJC, requires a candidate to take reasonable measures
4 to ensure that other persons do not undertake, on behalf of the candidate, any
5 activity prohibited by Rule 4.1(A).
6

7 21. The comments to Canon 4, MCJC, state that judicial candidates must
8 be scrupulously fair and accurate in all statements made by them and by their
9 campaign committees.
10

11 22. Rule 4.2(A)(3), MCJC, requires a candidate to review and approve
12 the content of all campaign statements and materials before their dissemination.

13 23. Rule 4.2(A)(4), MCJC, requires a candidate to take objectively
14 reasonable measures to ensure that other persons do not undertake on behalf of the
15 candidate any activities prohibited by Rule 4.1.
16

17 24. By making, or causing to be made, objectively false statements
18 during his judicial campaign, Respondent violated Canon 4, MCJC.
19

20 WHEREFORE, the Office of Disciplinary Counsel prays:

21 1. That a Citation be issued to the Respondent, to which shall be
22 attached a copy of the complaint, requiring Respondent, within twenty (20) days
23 after service thereof, to file a written answer to the complaint;
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25

2. That a formal hearing be had on the allegations of this complaint before an Adjudicatory Panel of the Commission;

3. That the Adjudicatory Panel of the Commission make a report of its findings and recommendations after a formal hearing to the Montana Supreme Court, and, in the event the Adjudicatory Panel finds the facts warrant disciplinary action and recommends discipline, that the Commission also recommend the nature and extent of appropriate disciplinary action; and,

4. For such other and further relief as deemed necessary and proper.

DATED this 15 day of July, 2016.

Jon G. Moog
Deputy Disciplinary Counsel